



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

February 22, 2023

Re: FOIA Request NLRB-2023-000540

Dear Mr. Joshua R. Eidelson (Bloomberg):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on December 29, 2022, in which you seek:

Any and all case documents, filings, position statements, exhibits, hearing transcripts, memos, and communications regarding the following closed cases:

Tesla: 32-CA-114306, 32-CA-232333, 03-CA-244618, 03-CA-243522, 32-CA-287631, 32-CA-135630, 32-CA-210011, 32-CA-214300, 32-CA-136306, 32-CA-221643, 32-CA-231690, 32-CA-255127, 32-CA-269127, 32-CA-308997, 32-CA-309016, 05-CA-271299, 32-CA-309010, 05-CA-250862, 32-CA-309003, 21-CA-239872, 32-CA-071247, 32-CA-075781, 16-RM-000784, 01-CA-262242, 21-CA-209622, 32-CA-171093, 21-CA-169289, 32-CA-128085, 32-CA-180523 and 20-CA-179203.

Any and all case documents, filings, position statements, exhibits, hearing transcripts, memos, and communications regarding the following open cases:

Tesla: 32-CA-197020, 32-CA-197058, 32-CA-197197, 32-CA-200530, 32-CA-208614, 32-CA-210879, 32-CA-197091, 12-CA-293359, 32-CA-220777, 32-CA-309022 and 32-CA-309008.

SpaceX: 31-CA-307446, 31-CA-307546, 31-CA-307555, 31-CA-307539, 31-CA-307551, 31-CA-307532, 31-CA-307514, 31-CA-307525, 19-CA-303870 and 19-CA-309274 and

Twitter: 02-CA-308119, 20-CA-307439, 20-CA-306745 and 20-CA-308933

You assumed financial responsibility for the processing of your request in the amount of \$250.00. You also requested a fee waiver.

We acknowledged your request on December 29, 2022 and on January 4, 2023 requested an additional 10 days for processing due to the voluminous nature of the request.

In an email communication with a member of the FOIA staff on January 6, 2023, you modified your request to the charges, position statements, and determinations that are not posted on our public webpage if the cases were closed. Subsequently on January 19, 2023, you stated that for open cases, you would like the charge, complaint, motions, and hearing transcripts not posted on our public website. On February 8, 2023, you further requested that exhibits be excluded from any responsive position statements. Finally, on February 14, 2023, you excluded eight cases, Case Nos. 32-CA-197020, 32-CA-197058, 32-CA-197197, 32-CA-200530, 32-CA-208614, 32-CA-210879, 32-CA-197091 and 32-CA-220777 from your request.

Your request is granted in part and denied in part, as explained below.

A search of the Agency's electronic casehandling system, NxGen, has been conducted. This search has located the requested records (243 pages) which are attached. Please note that these records are the best available copies, but some pages may be difficult to read and/or include stray marks.

After a review, I have determined that portions of the attached records are exempt from disclosure under Exemptions 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, redactions have been made to protect the privacy interests of individuals named in the record. These redactions were made pursuant to FOIA Exemption 6, which protects personally identifiable information, the release of which would constitute a clearly unwarranted invasion of personal privacy and FOIA Exemption 7(C), which protects records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

For the purpose of assessing fees, we have placed you in Category C, as a representative of the news media, in that you qualify as a person "actively gathering news for an entity that is organized and operated to publish or broadcast news to the public." NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(vii). Accordingly, there is no charge assessed for this request. Given your placement as a news media requester, your request for a fee waiver is moot.

You may contact Teresita Sanabria, the FOIA Specialist, who processed your request, at (202) 273-4000 or by email at Teresita.Sanabria@nrlb.gov, as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA

Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times.

The contact information for the FOIA Public Liaison is:

Kristine M. Minami
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

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Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ *Synta E. Keeling*

Synta E. Keeling
FOIA Officer

Attachments: (243 pages)